

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

MISC.# 1:10mc 25

IN RE: NORTH CAROLINA STATE )  
SUBPOENA FOR PROBATION OFFICER )  
SCOTT ALDRIDGE )  
\_\_\_\_\_ )

FILED  
ASHEVILLE, N.C.  
JUN 25 2010  
U.S. DISTRICT COURT  
W. DIST. OF N.C.

ORDER

THIS MATTER is before the Court on the *ex parte* oral request of the Chief United States Probation Officer for the Western District of North Carolina, regarding the following: 1) a subpoena to appear and testify issued to United States Probation Officer Scott Aldridge and issued by the General Court of Justice, Superior Court Division, Henderson County, North Carolina, dated June 17, 2010, and signed by Assistant District Attorney Elizabeth Dierauf, directing said Probation Officer to appear and testify on July 12 through 16, 2010, in that case in said court entitled State of North Carolina v. Richard Colt Rollins, Henderson County Court File Number 08 CrS 53362 (hereinafter the Rollins Case) a copy of which is attached hereto marked as Exhibit A (which subpoena is hereinafter referred to as "the Subpoena"), and 2) that "Request" dated June 15, 2010, and filed with the Henderson County Clerk of Superior Court on June 16, 2010, in the Rollins Case, signed by the Honorable Mark E. Powell,

Superior Court Judge, requesting the "parole records" and the "complete parole file" of said Richard Colt Rollins be produced to Assistant District Attorney Elizabeth Dierauf no later than June 30, 2010, a copy of which is attached hereto marked as Exhibit B (which Request is hereinafter referred to as the "Superior Court Request").

The Chief Probation Officer of the Western District of North Carolina is designated pursuant to 20 Guide to Judiciary Policy Ch.8 §840, which is authorized pursuant to 31 U.S.C. §1105(b), as the Determining Officer to decide whether any request for testimony or information directed to any employee of the Probation Office of the Western District of North Carolina may be enforced. 20 Guide to Judiciary Policy Ch.8 §850(a).

"Federal judicial personnel [including Probation Officer Aldridge] may not provide testimony or produce records in legal proceedings except as authorized" by the Judiciary Policy Regulations. 20 Guide to Judiciary Policy Ch.8 §820(a).

The Subpoena and the Superior Court Request each constitute a request within the meaning of 20 Guide to Judiciary Policy Ch.8 §810.30(d).

The request for testimony or production of records shall set forth, or shall be accompanied by an affidavit setting forth, a written statement by the party seeking the testimony or production of records, or by counsel for the party, containing an explanation of

the nature of the testimony or records sought, the relevance of the testimony or records sought to the legal proceedings, and the reasons why the testimony or records sought, or the information contained therein, are not readily available from other sources or by other means. 20 Guide to Judiciary Policy Ch.8 §830(a).

Such justification and affidavit shall be provided to the judicial personnel (here Probation Officer Aldridge) at least fifteen (15) working days in advance of the time by which the information is sought. 20 Guide to Judiciary Policy Ch.8 §830(b). Neither the Subpoena nor the Superior Court Request contained such affidavit or comparable information, and the Superior Court Request was not provided within the requisite period.

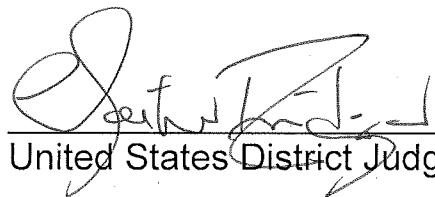
In addition, the Determining Officer, considering the factors set out in 20 Guide to Judiciary Policy Ch.8 §850(a), has determined that Probation Officer Aldridge may not testify as requested by the Subpoena, and that the requested records sought by the Superior Court Request may not be produced.

The Determining Officer has requested an Order of this Court pursuant to the Standing Order of this Court entitled In Re: Order Delegating Authority to Disclose Information Acquired by the U.S. Probation Office, 3:04mc113, dated August 9, 2004, for the purpose of enforcing the determination made by the Determining Officer.

**IT IS THEREFORE ORDERED** that the request of the Chief United

States Probation Officer for the Western District of North Carolina is **GRANTED**, and United States Probation Officer Scott Aldridge shall not give any pretrial, presentence or supervision information or testimony, and shall not produce or disclose any probation record relating to Richard Colt Rollins, unless authorized by said Chief Probation Officer and by further Order of this Court.

**IT IS SO ORDERED.**



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United States District Judge